

UPDATED INFORMATIVE DIGEST

The purpose of this regulatory package is to resolve the discrepancy between current regulation at Manual of Policies and Procedures (MPP) § 30-763.453 and Welfare and Institutions Code (WIC) § 12300(e). It was determined by the California Department of Social Services (CDSS) that the current regulation goes beyond the scope of the statute by limiting when a parent provider can receive payment for providing In-Home Supportive Services (IHSS) to their minor child with whom they reside.

Current statute allows for parents meeting specific criteria to be paid parent-providers, with no restrictions for two-parent households. Current regulations, however, deduct time from the parent-provider's IHSS hours when the non-provider parent is in the home. The current regulations in this area are inconsistent with the intent of the statute and state hearing decisions. In the new regulations, time is not automatically deducted from a parent-provider's IHSS hours when the non-provider parent is in the home. The new regulations will provide clarity and consistent direction to counties that is consistent with statute.

In addition to resolving this discrepancy, language was added to improve clarity to §30-763.44 and §30-763.45. Language was added concerning persons having a duty under the Family Code to care for his/her child. Parental availability to care for his/her own child is more distinctly addressed in the proposed regulations. The proposed regulations provide examples of when a parent or non-parent may be paid to provide IHSS for their child. The proposed regulations provide a definition of full-time parental employment for the purposes of IHSS and address the issue of parental employment from home. In addition, clean-up language was completed for current §30-763.454(c) and (e). §30-763.457 was added to clarify that parents of minor recipients are not eligible providers under the Personal Care Services Program.

The Department anticipates that these proposed regulations will benefit California residents by increasing the overall IHSS Program integrity in assessing the eligibility of applicants and recipients in a manner consistent with state statute. The proposed regulations will also provide consistent economic support to parents who are prevented from full-time employment because of the need to care for their disabled child(ren).

The Department considered other possible related regulations and found the proposed regulations are the only regulations addressing minor IHSS recipients living with parent(s); therefore, the Department finds that these proposed regulations are compatible and consistent with the intent of WIC section 12300(e) and state hearing decisions.

These regulations were considered at the public hearing held on December 4, 2013, in Sacramento, California. Written testimony was received during the 45-day comment period from October 18, to 5:00 p.m. December 4, 2013.

Following the public hearing and upon further review of the regulations, the Department decided to make a few nonsubstantive changes to the regulations for clarity. Section 30-763.451(a) was also amended to change full time employment from 35 to 40 hours per week. Although not controlling, Labor Code sections 510, 511 and 515(c), refer to a 40 hour work week as full-time employment.

Pursuant to Government Code section 11346.8, a 15-day renote and complete text of modifications made to the regulations were made available to the public following the public hearing. The renote was from April 24 to May 12, 2014.

As a result of the renote, testimony was received which required CDSS to make clarifying, nonsubstantive changes to the proposed regulations.